

Remarks/Arguments

Initially, applicants apologize for the confusion in this case. This application was purchased from Crompton Corporation and it appears that the file that we received did not properly indicate which version of the specification was actually filed with the USPTO. Applicants were obviously not working from the version actually filed which resulted in some confusion regarding the actual number of claims in the case, and claim status identifiers. Applicants thank the examiner for faxing them a copy of the application as filed.

Claims 1-30 are pending in the present case. Applicants canceled claims 5, 12 and 25 herein and added new claims 31-33.

In the Office Action mailed November 17, 2004, the Examiner rejected claims 1, 3, 5-8 12 and 13 under 35 U.S.C. §102(b) over Muzyczko. Claims 1-3, 5-8, 10, 12 and 13 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 4,898,725 to Hoeffkes. Claims 1, 3, 5-8, 10, 12, 13, 23 and 24 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,019,281 to Singer. The examiner also indicated that claims 4, 9, 11, 14 and 26-29 are rejected for being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 15-22 and 30 were also indicated to be allowable over the art of record.

In response to the rejections applicants provide the following remarks that are believed to place the present case in condition for allowance. Favorable reconsideration of all the pending claims is respectfully requested.

Initially, regarding the alleged missing structure on page 6 of the application, there is only one structure that appears at the top of the page. That structure is of the cationic surfactant employable in the base fluid of the invention, and the structure is the same as appears in present claim 1.

Applicants thank the examiner for bringing the missing "or" in claim 1 to their attention. It was inadvertently left out in the Preliminary Amendment, but has been added back in the present response.

I. The Rejection of Claims 1, 3, 5-8 12 and 13 under 35 U.S.C. §102(b) over Muzyczko.

Muzyczko discloses fatty amidoamine derivatives, specifically, N,N-dimethyl-N-(3-alkylamidopropyl)amines and their salts. Claim 1, as amended, is directed to an aqueous base fluid for use in oilfield applications wherein said base fluid comprises:

- a) from about 0.05% to about 10% by weight of at least one cationic surfactant of specific structure, and
- b) from about 0.1% to about 5% by weight of at least one counterion selected from the group consisting of inorganic salts, organic salts, organic acids, alcohols, and mixtures thereof.

Applicants respectfully submit that Muzyczko clearly does not disclose the base fluid of claim 1 containing both the cationic surfactant and the counter-ion components in the weight percentages claimed. The present rejection is therefore believed to be improper; reconsideration and withdrawal thereof is respectfully requested.

II. The Rejection of Claims 1-3, 5-8, 10, 12 and 13 Under 35 U.S.C. §102(b) Over U.S. Patent No. 4,898,725 to Hoeffkes.

Hoeffkes discloses a hair care composition for washing or rinsing hair that contains:

- a) at least one water soluble ionic polymer;
- b) a water soluble salt of a saturated or unsaturated aliphatic or aromatic di-, or tri-carboxylic acid containing 6-44 carbon atoms... ; and

- c) **OPTIONALLY, a quaternary ammonium salt, that could be (among dozens of possible selections) an alkyl amido quaternary.**

From this disclosure in an entirely different art field the examiner alleges that Applicants' invention is disclosed. The examiner is respectfully reminded that the present rejection is under section 102(b). The invention of claim 1 is directed to an **aqueous base fluid for use in oilfield applications** wherein said base fluid comprises:

- a) **from about 0.05% to about 10% by weight of at least one cationic surfactant of specific structure, and**
- b) **from about 0.1% to about 5% by weight of at least one counterion selected from the group consisting of inorganic salts, organic salts, organic acids, alcohols, and mixtures thereof.**

Applicants respectfully submit that Hoeffkes clearly does not disclose the base fluid for use in oilfield applications of claim 1 containing both the cationic surfactant and the counter-ion components in the weight percentages claimed. The present rejection is therefore believed to be improper; reconsideration and withdrawal thereof is respectfully requested.

III. The Rejection of Claims 1, 3, 5-8, 10, 12, 13, 23 and 24 Under 35 U.S.C. §102(b) Over U.S. Patent No. 5,019,281 to Singer

Singer, which is from a totally different art field, discloses a hydrophilic softening agent for fibrous materials comprising

- (1) a water soluble ammonium salt;
- (2) at least one further quaternary ammonium compound, and
- (3) a dispersed emulsifiable polyethylene wax.

The invention of claim 1 is directed to an **aqueous base fluid for use in oilfield applications** wherein said base fluid comprises:

- a) from about 0.05% to about 10% by weight of at least one cationic surfactant of specific structure, and
- b) from about 0.1% to about 5% by weight of at least one counterion selected from the group consisting of inorganic salts, organic salts, organic acids, alcohols, and mixtures thereof.

Applicants respectfully submit that Singer clearly does not disclose the base fluid for use in oilfield applications of claim 1 containing both the cationic surfactant and the counter-ion components in the weight percentages claimed. Additionally, the examiner is respectfully requested to note that claim 26 was combined with claim 24. It is clear in this regard that the polyethylene wax of Singers does not qualify as either a cutting and/or a proppant.

In view of the foregoing, the rejection of claims 1, 3, 5-8, 10, 12, 13, 23 and 24 under 35 U.S.C. §102(b) over Singer is believed to be improper; reconsideration and withdrawal thereof is respectfully requested.

In view of the amendments and remarks herein, all of the pending claims are believed to be in condition for allowance, which action is respectfully solicited.

Respectfully submitted,



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